

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 03-97

July 23, 2003

TO: All Regional Directors, Officers-in-Charge
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Court Reporting Contracts -- Regional Procedures
For Reviewing Transcripts for Acceptance and Payment

All of the new reporting contracts have been awarded and are now being performed. The terms of the contracts are April 1, 2003 to December 31, 2003, renewable for one year thereafter. Each Region should have a copy of the new court reporting solicitation that outlines the procedures for monitoring the court reporting services. Some of the Regions have been advised that the contracts for their reporting companies have been awarded conditionally, and that the continuation of these contracts during the initial year is contingent upon the contractors' compliance with the contract terms. In light of these conditional awards and in order to ensure that the Agency receives good service from all of its contractors, it is important that the Regions carefully monitor the contractors' performance for timeliness, dependability and accuracy.

In the event of significant reported deficiencies, Procurement will issue cure letters to the contractors, requiring corrective measures. Should performance deficiencies continue, the contractors would be issued a "show cause" letter, in accordance with Subpart 49.607 of the Federal Acquisition Regulations, requiring the contractors to fully explain why the contract should not be terminated. If problems continue after the "show cause" notice has issued, Procurement will terminate the contract based on the contractors' failure to cure reported performance deficiencies. However, Procurement cannot take any such actions absent the Regions' careful and timely documentation and reporting of infractions to the contractors as well as to Procurement. Accordingly, we are providing guidance, previously summarized in OM -01-42, regarding the procedures to follow in monitoring the contracts. Four forms will assist the Regions in reporting deficiencies and monitoring the contracts. They are Form 5383 (Transcript Report) <http://nlrbnet.nlr.gov/HQ/Security/Forms/nlr5383.pdf>, Form 5384 (Report of Overtime) <http://nlrbnet.nlr.gov/HQ/Security/Forms/nlr5384.pdf>, Form 5353(Proceeding and Transcript Deficiency Report) <http://nlrbnet.nlr.gov/HQ/Security/forms/nlr5353.pdf>. These documents and the Checklist for Reviewing Transcripts, described below, are all available on the

Agency's Intranet at [Contracts & Proc.](#) Please observe the following procedures for monitoring the contracts and reporting deficiencies.

- Upon receipt of a transcript and Transcript Report (Form 5383) from the contractor in the Regional, Subregional or Resident Office, Form 5383 should be immediately time and date stamped. The contractor's notations regarding the hearing dates, transcript pages and exhibits should be verified or disputed on form 5383.
- Whenever a hearing extends beyond 6:00 pm, it is the responsibility of the Hearing Office or Trial Attorney to fill out a Report of Overtime (Form 5384) and submit it to the appropriate Office Manager. The Office Manager should send a copy to the reporter, retain the original, and attach a copy to the invoice received from the reporting contractor when forwarding for payment.
- Upon receipt, transcripts should be spot-checked to determine whether all pages are included and to verify that the format conforms to the solicitation (including appropriate title pages, margins, indentations, line numbering, lines per page, and certification by the court reporter). Each volume of transcript in C-cases, and when ordered in R-cases, must contain a separate diskette in the required format. The diskette must be properly labeled, placed in a protective reusable container, and bound to the inside back page of the transcript. If any of these requirements have not been met, the contractor is to be notified and the Proceeding and Transcript Deficiency Report (Form 5353) must be completed.
- It is very important that dissatisfaction with the contractor's performance is noted on Form 5353 (for example, errors found in the transcript, late appearance for proceedings, equipment failure, late deliveries, conduct by the reporter). If there are any questions about what should be noted on the form or regarding what should be considered significant deficiencies under the contract, please contact Paula M. Roy, Chief, Contract and Procurement Section, Linda Blake, or Andrew Steed at (202)-273-4210.
- The exhibits from the hearing must be reviewed to make sure that all exhibits have been included. Exhibits should be numbered, tabbed and organized consecutively to correspond to the party submitting the exhibits. Exhibits must also be authenticated with a reporter stamp in the proper format. If there are any missing exhibits or if the index of exhibits is incorrect, the contractor should be notified and the Proceeding and Transcript Deficiency Report (Form 5353) be completed.

- If the transcript was not timely received in accordance with the time frames for receipt of R-cases and C-cases, the reporting contractor must be informed and Form 5353 must be completed. If transcripts are received late, the contractor is required to make appropriate price adjustments in the bill. Thus, for example, if 3-day delivery was not provided for an R-case transcript, the Region should report the late delivery and should not pay the premium price for 3-day delivery, but should pay a lesser amount depending upon the actual time of delivery.
- To facilitate the review of transcripts, a Checklist for Reviewing Transcript has been developed and is attached to this memorandum. It is recommended that Regions utilize this checklist to ensure that transcripts are appropriately reviewed upon receipt. Although a Region is not required to complete this form in every case, whenever a review of a transcript shows a significant transcript deficiency, the Checklist for Reviewing Transcript must be completed and submitted to the Procurement along with the Monthly Regional Hearing Control Log (Form 5403).

All completed Forms relating to the transcript deficiencies must be forwarded to the Contract and Procurement Section of the Procurement and Facilities Branch (Room 6100) in Headquarters. These forms may be emailed or faxed to the Procurement and Facilities Branch to the attention of Linda Blake at 202-273-2849. We will be updating the Checklist periodically based on any changes in the court reporting solicitation.

In 2001, our Office Managers completed the Contracting Officer's Representative (COR) Mentor Course that was offered by the Federal Acquisition Institute's FAI Online University. This training was offered to improve the monitoring of the court reporting contracts and it enabled us to comply with Federal Procurement regulations, as well as provide Office Managers with the detailed knowledge on performing the duties of a Contracting Officer's Representative. The Procurement and Facilities Branch will contact all new Office Managers who were selected after May 2001 and who have not yet taken the course to arrange for such training.

Any questions concerning this memorandum should be addressed to the undersigned or your Assistant General Counsel or Deputy.

/s/
R. A. S.

Attachments